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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LESLIE GRISHAM,
Plaintiff,

v.

PHILIP MORRIS USA INC., et al.
Defendants.

Case No. 02-7930 SVW (Rcx)

Judge: Hon. Stephen V. Wilson

Declaration of Frances M. Phares in
Support of Plaintiff's Reply
Memorandum re Plaintiff's Request
for Collateral Estoppel / Issue
Preclusion in Relation to Motion to
Stay

Date: September 14, 2009
Time: 1:30 p.m.
Courtroom: 6

I, Frances M. Phares, declare as follows:

1. I am an attorney at the law firm of Baum, Hedlund, Aristei & Goldman, P.C., attorneys of record for Plaintiff Leslie J. Grisham in this action. The statements in this declaration are made on the basis of my own personal knowledge and I could, and would, competently testify if called upon to do so. This declaration is submitted in support of Plaintiff's Reply to Defendants' Memorandum Opposing Collateral Estoppel/Issue Preclusion in Relation to

1 Motion to Stay.

2 2. Attached hereto as Exhibit 1 is a true and correct copy of one page
3 of Trial Report No. 40, *Robert A. Falise et al., v. American Tobacco Company,*
4 *et al.*, CY No. 99-7392 (JBW), In the United States District Court for the Eastern
5 District of New York dated January 25, 2001; also included is a true and correct
6 copy of a "Profile" on this case as reported at [Tobaccodocuments.org](http://tobaccodocuments.org)
7 downloaded at <http://tobaccodocuments.org/profiles/litigation/falise.html>.

8 3. Attached hereto as Exhibit 2 is a true and correct copy of the "Verdict
9 Form" dated November 16, 2007 in the matter of *Menchini v. Philip Morris,*
10 *Inc., et al.*, Case No.: 00-20916 CA 15, In the Circuit Court of the 11th Judicial
11 Circuit in and for Miami-Dade County, Florida.

12 4. Attached hereto as Exhibit 3 is a true and correct copy of "Judgment on
13 Jury Verdict" dated February 22, 2006 in the matter of *Vandenberg v. Brown &*
14 *Williamson, et al.*, Case No: 03CV237238, In the Circuit Court of Jackson
15 County, Missouri at Independence, Missouri; also included is a true and correct
16 copy of a document entitled "Backgrounded" with T.J. Reynolds logo dated
17 January 4, 2006 regarding this matter.

18 5. Attached hereto as Exhibit 4 is a true and correct copy of a "Verdict" in
19 *Lorraine Slaty v. Philip Morris, Incorporated, et al.*, Case No. 00-22691 CA 09,
20 In the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County,
21 Florida.

22 6. Attached hereto as Exhibit 5 is a true and correct copy of a "Verdict" in
23 *Became v. Philip Morris USA, Inc.*, Case No. 02-01836, In the Circuit Court for
24 the Thirteenth Judicial Circuit in and for Hillsborough County, Florida Civil
25 Division dated April 29, 2005 [the date could be the 20th as it is illegible].

26 7. Attached hereto as Exhibit 6 is a true and correct copy of a 10 page special
27 verdict form dated April 21, 2005 in *Coolidge v. Philip Morris Inc., et al.* No.
28 RBC-361063 (Cal. Super. Ct.); also included is a true and correct copy of a news

1 release as reported at Tobaccodocuments.org downloaded at

2 <http://www.tobacco.org/articles/lawsuit/coolidge/>.

3 8. Attached hereto as Exhibit 7 is a true and correct copy of a “Special
4 Verdict Form” in *Realer v. Philip Morris USA, Inc.*, No. BC 261796, California
5 Super. Ct., dated March 4, 2005. (*Realer II*).

6 9. Attached hereto as Exhibit 8 is a true and correct copy of a “Verdict
7 Form” in *Hall v. R.I. Reynolds Tobacco Co.*, No. 00-1061 (Fla. Cir. Ct.) dated
8 December 10, 2003; also included is a true and correct copy of a nine page
9 untitled document with T.J. Reynolds logo dated October 31, 2003 regarding
10 this matter.

11 10. Attached hereto as Exhibit 9 is a true and correct copy of a “Verdict
12 Form” in *Langton v. Philip Morris USA Inc.*, No. OO-C-442 (N.H. Super. Ct.).

13 11. Attached hereto as Exhibit 10 is a true and correct copy of a “Verdict
14 Form” in *Mouth v. Philip Morris Inc.*, No. 00-3030 (Fla. Cir. Ct.) dated October
15 14, 2003; also included is a true and correct copy of a “Profile” on this case as
16 reported at Tobaccodocuments.org downloaded at

17 <http://tobaccodocuments.org/profiles/litigation/routh.html>.

18 12. Attached hereto as Exhibit 11 is a true and correct copy of an “amended”
19 sixteen page “Special Verdict” forms in *Realer v. Philip Morris USA, Inc.*, No.
20 BC 261796, California Super. Ct., dated July 31, 2003. (*Realer I*).

21 13. Attached hereto as Exhibit 12 is a true and correct copy of a three page
22 “Verdict A” form in *Welch v. Brown & Williamson Tobacco Corp.*, No. 00-
23 CV209292 (Mo. Cir. Ct.) dated June 16, 2003; also included is a true and
24 correct copy of a news release as reported at Tobaccodocuments.org downloaded
25 at <http://www.tobacco.org/articles/lawsuit/welch/>; also included is a true and
26 correct copy of a “Profile” on this case as reported at Tobaccodocuments.org
27 downloaded at <http://tobaccodocuments.org/profiles/litigation/welch.html>.

28 14. Attached hereto as Exhibit 13 is a true and correct copy of a “Verdict

1 Form” in *Allen v. R.I. Reynolds Tobacco Co.*, No. 01-4319 (S.D. Fla.) dated
2 February 28, 2003.

3 15. Attached hereto as Exhibit 14 is a true and correct copy of an undated
4 “Verdict Sheet” in *Unseriously v. Am. Tobacco Co.*, No. 011754/96 (N.Y. Super.
5 Ct.) consisting of 12 pages.

6 16. Attached hereto as Exhibit 15 is a true and correct copy of a “Special
7 Verdict” in *Lacier v. Philip Morris Inc.*, No. 02AS01909 (Cal. Super. Ct.) dated
8 February 7, 2003; also included is a true and correct copy of a news release on
9 the case as reported at The Data Company website, downloaded at
10 <http://www.datacompanies.com/news/i.ndex.html>; also included is a true and
11 correct copy of a “Profile” on this case as reported at Tobaccodocuments.org
12 downloaded at <http://tobaccodocuments.org/profiles/litigation/lucier.html>.

13 17. Attached hereto as Exhibit 16 is a true and correct copy of a two page
14 verdict form in *Seal v. Philip Morris Inc.*, No. 00-21271 (Fla. Cir. Ct.) dated
15 February 7, 2003.

16 18. Attached hereto as Exhibit 17 is a true and correct copy of a form entitled,
17 “Questions to be answered by the jury” in the *Carter v. Philip Morris Inc.*, No.
18 4567 (Pa. Ct. Comm. Pl.) consisting of 5 pages which are undated and unsigned,
19 though provides answers to some of the questions presented.

20 19. Attached hereto as Exhibit 18 is a true and correct copy of the
21 “Judgement” in *Coney v. R.I. Reynolds Tobacco Co.*, No. C 00-1740 (N.D. Cal.)
22 dated January 9, 2003; also included is a true and correct copy of a news release
23 as reported at Tobaccodocuments.org downloaded at
24 <http://www.tobacco.org/articles/lawsuit/conley/>; and, also included is a true and
25 correct copy of a news release on the case as reported at The Data Company
26 website, downloaded at <http://www.datacompanies.com/news/index.html>.

27 20. Attached hereto as Exhibit 19 is a true and correct copy of a two page
28 verdict form in *Tucker v. Philip Morris Inc.*, No. 00- 21905 (Fla. Cir. Ct.) dated

1 October 4, 2002.

2 21. Attached hereto as Exhibit 20 is a true and correct copy of a three page
3 verdict form in *Janoff v. Philip Morris Inc.*, No. 00- 3153 (Fla. Cir. Ct.) dated
4 September 5, 2002.

5 22. Attached hereto as Exhibit 21 is a true and correct copy of a two page
6 “Verdict” form in *Tune v. Philip Morris Inc.*, No. 97-4678 (Fla. Cir. Ct.) dated
7 May 24, 2002; also included is a true and correct copy of a “Profile” on this
8 case as reported at Tobaccodocuments.org downloaded at
9 <http://tobaccodocuments.org/profiles/litigation/tune.html>.

10 23. Attached hereto as Exhibit 22 is a true and correct copy of a four page
11 “Verdict form” in *Hyde v. Philip Morris Inc.*, No. 97-359ML (D.R.I.) dated
12 March 21, 2002; also included is a true and correct copy of a news release on the
13 case as reported at the website of AllBusiness.com and downloaded at
14 <http://www.allbusiness.com/legal/trial-procedure-jury-trial/5867754-1.html>.

15 24. Attached hereto as Exhibit 23 is a true and correct copy of two page
16 document entitled, “Blankenship II Trial Report No. 30” dated November 14,
17 2001 in *In Re Tobacco Litig.*: No. 2:97-0204 (S.D. W. Va.); also included is a
18 true and correct copy of a four page document from the case entitled, “JURY
19 INTERROGATORIES AND VERDICT FORM,” dated November 14, 2001.

20 25. Attached hereto as Exhibit 24 is a true and correct copy of a one page
21 verdict form in *Tompkin v. Am. Brands, Inc.*, No. 5:94CV1302 (N.D. Ohio)
22 dated October 5, 2001; also included is a true and correct copy of a “Profile” on
23 this case as reported at Tobaccodocuments.org downloaded at
24 <http://tobaccodocuments.org/profiles/litigation/tompkin.html>.

25 26. Attached hereto as Exhibit 25 is a true and correct copy of a two page
26 document entitled, “Trial Report No. 25” in the case of *Mehlman v. Philip*
27 *Morris Inc.*, No. L- 1141-99 (N.J. Super. Ct.) dated May 16, 2001; also included
28 is a true and correct copy of a three page “Opinion” in *Mehlman* dated May 7,

1 2001.

2 27. Attached hereto as Exhibit 26 is a true and correct copy of a two page
3 “Verdict” in *Fontana v. Philip Morris Inc.*, No. 001731 (Fla. Cir. Ct.) dated
4 April 10, 2001.

5 28. Attached hereto as Exhibit 27 is a true and correct copy of an eleven page
6 “Verdict Sheet” in *Apostolou v. Am. Tobacco Co.*, No. 02-01836 (Fla. Cir. Ct.);
7 also included is a true and correct copy of a news release, “Backgrounded
8 Report” downloaded from
9 <http://www.tobacco.neu.edu/litigation/cases/Backgrounders/Apostolou.htm>.

10 29. Attached hereto as Exhibit 28 is a true and correct copy of the “Final
11 Judgment” in *Butler v. Philip Morris, Inc.*, No. 94-5-53 (Miss. Cir. Ct.) dated
12 June 2, 1999.

13 30. Attached hereto as Exhibit 29 is a true and correct copy of the one page
14 “Verdict” in *Dunn v. RJR Nabisco Holdings Corp.*, No. 18DO1-9305-CT-06
15 (Ind. Super. Ct.) dated March 19, 1998; also included is a true and correct copy
16 of a document entitled, “Backgrounded for Litigation” dated February 9, 1998
17 on the *Dunn* case, bearing T.J. Reynold’s bate numbers RJR0000000003070607
18 70044 5414 through RJR0000000003070607 70044 5421.

19 31. Attached hereto as Exhibit 30 is a true and correct copy of a four page
20 “Verdict Forms” in *Rogers v. R.I. Reynolds Tobacco Co.*, No. 87-2106 (Ind.Cir.
21 Ct.) dated on “Form B” on August 23, 1996.

22 32. Attached hereto as Exhibit 31 is a true and correct copy of a seven page
23 verdict form in *Blue Cross and Blue Shield v. Philip Morris Inc.*, Case No.
24 98cv3287 (E.D.N.Y.).

25 33. Attached hereto as Exhibit 32 is a true and correct copy of a two page
26 verdict form in *Iron Workers Local Union v. Philip Morris Inc.*, No. 1:97cv1422
27 (N.D. Ohio) dated March 18, 1999.

28 34. Attached hereto as Exhibit 33 is a true and correct copy of the “Judgment

1 in a Civil Case” in *Cipollone v. Liggett Group, Inc.*, Case No. 83-2864 dated
2 June 15, 1988; also included is a true and correct copy of five pages of “Jury
3 Interrogatories” that were attached to the judgment.

4 33. Attached hereto as Exhibit 34 is a true and correct copy of the “Final
5 Judgment and Remedial Order, Order # 1015 in *United States v. Philip Morris*
6 *USA, Inc.* (D. D.C. 2006) 449 F. Supp.2d 1, 28, *aff’d in part, vacated in part*,
7 (D.C. Cir. 2009) 566 F.3d 1095, 1106 (“*DOJ Case*”).

8
9 Dated: August 28, 2009

Respectfully Submitted,

10 BAUM, HEDLUND, ARISTEI & GOLDMAN, P.C.

11
12 By: /s/Frances M. Phares
13 Frances M. Phares, Esq.
14 Michael L. Baum, Esq.
15 Attorneys for Plaintiff
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Decl of Phares In Support of Plaintiff's Reply
Memo Re Collateral Estoppel/Motion to Stay

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and am not a party to the within action; my business address is 12100 Wilshire Blvd., Suite 950, Los Angeles, California 90025.

On the date hereinbelow specified, I served the documents described as set forth below on the named defendants in this action as follows:

Date of Service: August 28, 2009

Document Served: Declaration of Frances M. Phares In Support of Plaintiff's Reply Memorandum Re Plaintiff's Request for Collateral Estoppel/Issue Preclusion in Relation to Motion to Stay

Parties Served: SEE ATTACHED SERVICE LIST

X (VIA THE COURT'S ECF FILING SYSTEM)

— (BY PERSONAL SERVICE)

— (BY U.S. MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing or correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X (BY E-MAIL) I caused said documents to be transmitted via facsimile to the e-mail addresses marked on the attached service list.

— (BY FACSIMILE) I caused said documents to be transmitted via facsimile to the offices of the addressee(s) marked on the attached service list.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED: August 28, 2009 at Los Angeles, California.

/s/ Sheila Beam
Sheila Beam

Decl of Phares In Support of Plaintiff's Reply
Memo Re Collateral Estoppel/Motion to Stay

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Decl of Phares In Support of Plaintiff's Reply
Memo Re Collateral Estoppel/Motion to Stay

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Attorneys for Brown & Williamson Holdings, Inc.
(formerly known as Brown & Williamson Tobacco Corp.)